

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

KAREN MYERS CROSS

VS.

ACS STATE & LOCAL SOLUTIONS, INC.

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CASE NO. 4:11-cv-00307

PLAINTIFF'S FIRST AMENDED COMPLAINT

Now comes Karen Myers Cross, complaining of ACS State & Local Solutions, Inc., and for cause of action would show the Court as follows:

PARTIES

Plaintiff, Karen Myers is a natural person who resides in Denton County, Texas.

Defendant, ACS State & Local Solutions, Inc. is a corporation organized under the laws of the state of New York and may be served with process by serving its registered agent for service of process: Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th St., Suite 620, Austin, Texas 78701-3218.

FACTUAL ALLEGATIONS

Plaintiff is a consumer as defined by 15 U.S.C. §1693a(5).

Defendant is a financial institution as defined by 15 U.S.C. §1693a(8) and holds an account belonging to Plaintiff, a consumer.

Defendant issued to Plaintiff a Texas debit card on the account to be used for receiving funds for child support from the office of the Texas Attorney General. The card is called an "Eppicard."

In June, 2010, just after the monthly child support payment was deposited on her debit card, Plaintiff noticed that a large number of charges/fund transfers had been made to the debit card which resulted in eliminating the entire deposit made to the card. These charges/fund transfers were not made by Plaintiff nor authorized by her.

The transactions discovered by Plaintiff were electronic funds transfers from her "consumer" account initiated by some other person who had no authority to initiate the transfer and which did not benefit Plaintiff.

Plaintiff did not provide her card, code or any means of access to her consumer account to any other person. Plaintiff was not acting in concert with the unknown person who made the unauthorized electronic funds transfers from her consumer account.

Plaintiff immediately called the number on the back of the debit card to lodge a complaint about the unauthorized charges/fund transfers and followed up by making a written dispute.

Defendant refused to acknowledge the legitimacy of Plaintiff's dispute and refused to credit back the sums to Plaintiff's debit card. Plaintiff sent a second written dispute to Defendant. No response was received to the second dispute. Plaintiff retained the services of an attorney who made an additional written dispute. No response was received to the third dispute.

ELECTRONIC FUNDS TRANSACTIONS ACT

Defendant has violated 15 U.S.C. §1693f by not conducting a reasonable investigation of the dispute and by denying the dispute when it did not have a reasonable basis for believing that Plaintiff's account was not in error.

Under the Electronic Funds Transactions Act ("EFTA"), Plaintiff's liability for unauthorized withdrawals is limited to \$50.00.

The unauthorized charges or withdrawals from Plaintiff's debit card total approximately \$1700.00.

Pursuant to 15 U.S.C. §1693f and 1693m, Defendant's actions entitle Plaintiff to actual damages, treble damages, court costs and attorney fees for which Plaintiff sues herein to recover.

By reason of the allegations in this petition, Plaintiff is entitled to recover attorney's fees in a sum that is reasonable in relation to the amount of work expended for which Plaintiff sues herein. The attorney whose name is subscribed to this pleading has been employed to assist Plaintiff in the prosecution of this action.

Prayer for Relief

WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendant's actions violate the EFTA.
2. Enter judgment in favor of Plaintiff and against Defendant for actual damages, treble damages, costs, and reasonable attorney fees as provided by 15 U.S.C. §1693f and 1693m.
3. Grant such further relief as deemed just.

TRIAL BY JURY IS DEMANDED.

Respectfully submitted,

/s/ Sharon K. Campbell
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CERTIFICATE OF SERVICE

In keeping with Rule 21a of the Texas Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing instrument has been served upon all attorneys of record, via

☐ CERTIFIED MAIL/RETURN RECEIPT REQUESTED
☐ TELEPHONIC DOCUMENT TRANSFER (FAX)
☐ FEDERAL EXPRESS
☐ COURIER/RECEIPTED DELIVERY
☐ REGISTERED MAIL/RETURN RECEIPT REQUESTED
☐ HAND-DELIVERY (IN PERSON)
☐ REGULAR MAIL
☒ ELECTRONIC MAIL

DATED: June 9, 2011

/S/ Sharon K. Campbell

